Preparatory Committee for the 1995 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

NPT/CONF.1995/PC.III/5
12 July 1994

ORIGINAL: ENGLISH

Third session
Geneva, 12-16 September 1994

IMPLEMENTATION OF ARTICLE VII OF THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Background paper by the Secretariat

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I. INTRODUCTION

1. The Preparatory Committee for the 1995 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, at its second session, held from 17 to 21 January 1994, invited the Secretary-General of the United Nations to prepare for the Preparatory Committee's third session, to be held from 12 to 16 September 1994, a background paper on the overall implementation of article VII of the Treaty, 1/ and requested that the paper should deal with the issue of nuclear-weapon-free zones and contain a brief description of the issue of zones of peace. The present paper is submitted in response to that request.

II. GENERAL

2. The concept of a nuclear-weapon-free zone was first developed in the late 1950s as a possible complementary measure to the efforts of the international community being pursued at the time, with a view to establishing a global regime for the non-proliferation of nuclear weapons. Soon, the concept gained a momentum of its own in the context of regional approaches to arms control and disarmament, i.e., as an expression of the desire of non-nuclear-weapon States to protect themselves from the potential danger of nuclear confrontation and also to preclude the possible deployment of nuclear weapons on their territories and in the adjacent areas. In view of its rather broad objective, the establishment of such zones could not be considered in isolation from the military-strategic situation in the world in existence throughout the cold-war era. This element played a decisive role in the consideration of various proposals for the establishment of nuclear-weapon-free zones and the acceptance of their terms by the nuclear-weapon States. In addition, specific regional and subregional characteristics and security concerns have had an impact on the promotion and/or consideration of such proposals by the States concerned.

3. Each nuclear-weapon-free zone established or proposed so far has been intended to meet specific conditions as set by the States concerned. The regional approach is seen as having the advantage that it can take account of the situation prevailing in a given area and permits adjustment with regard to such matters as verification methods and confidence-building measures. Regional solutions may also be more liable to obtain the agreement of all States involved than are global arrangements. A general definition of the zonal concept was provided by the General Assembly in 1975. 2/ Under that definition, a nuclear-weapon-free zone is any zone, which States, in the free exercise of their sovereignty, have legally agreed upon, which is totally free of nuclear weapons, and which has an international verification system to guarantee compliance with the obligations. Three measures in particular are of central importance for the achievement of the objectives of a nuclear-weapon-free zone: non-possession of nuclear weapons by zonal States; non-stationing of nuclear weapons within the geographical area of the zone by any State; and the non-use or non-threat of use of nuclear weapons against targets within the zone. The 1978 Final Document of the Tenth Special Session of the General Assembly, the first special session devoted to disarmament, stated that "the establishment of nuclear-weapon-free zones on the basis of arrangements freely arrived at among

the States of the region concerned constitutes an important disarmament measure". 3/

4. Effective implementation of a nuclear-weapon-free-zone agreement requires a system of verification to ensure that all States involved, zonal States as well as extra-zonal States, comply with their obligations. Generally, a zonal treaty must include provisions for both verifying compliance and considering and settling issues of non-compliance.

5. Over the years, numerous proposals for nuclear-weapon-free zones have been put forward in various forums. Some of these have led to the conclusion of specific agreements. The first tangible results in that regard were achieved in 1959 and 1967 when agreement was reached on the complete demilitarization of the Antarctic and the denuclearization of outer space, respectively. Although these two agreements were not negotiated as nuclear-weapon-free zones per se, by providing in general terms for the demilitarization of their respective areas they have in fact taken on the character of nuclear-weapon-free zones. However, they cover, respectively, only unpopulated areas on the Earth and in outer space.

6. The first agreement to establish a nuclear-weapon-free zone with respect to a densely populated area of the planet was concluded in 1967. This is the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco). The second such agreement, the South Pacific Nuclear-Free-Zone-Treaty (Treaty of Rarotonga), was concluded in 1985. As a result, the territory of the Earth now being freed of nuclear weapons by international treaties covers a very large geographical area. It extends from the Latin American zone in the east to include Australia and Papua New Guinea in the west, comprising considerable adjoining Atlantic and Pacific sea areas. In the other direction it stretches from Antarctica in the south to the equator in the north. A more detailed review of the provisions of the two Treaties, their scopes and the process of implementation is provided in the separate background papers prepared by the respective secretariats established to service these Treaties. The Treaty of Tlatelolco is covered in document NPT/CONF.1995/PC.III/10 and the Treaty of Rarotonga in document NPT/CONF.1995/PC.III/11.

III. INITIATIVES FOR NUCLEAR-WEAPON-FREE ZONES

7. Discussions on the establishment of nuclear-weapon-free zones are continuing among the States concerned, both within and outside the framework of the United Nations. In addition to the two existing treaties on zones free of nuclear weapons, proposals have been made for the establishment of nuclear-weapon-free zones in other regions of the world. The most notable of these are Africa, Asia and the Middle East. Proposals have also been made with respect to certain parts of Europe. Whereas the recently changed international climate has improved the prospects for some of these projects, the end of the cold war has rendered obsolete some others, mainly those which had been developed within the context of the East-West military situation, particularly in Europe.

A. Africa

8. The idea of a denuclearized Africa originated at the Assembly of Heads of State and Government of OAU in 1964. Each year since 1974, the General Assembly has adopted resolutions on the subject-matter. 4/ Concrete progress in the implementation of the proposal has only been possible, however, since recent positive developments occurred on the continent, and particularly after the political situation in South Africa had changed dramatically. Following South Africa's accession to the Treaty on the Non-Proliferation of Nuclear Weapons in 1991, a group of experts was convened by the United Nations, in cooperation with OAU, with the mandate to start work on a draft treaty on an African nuclear-weapon-free zone. The General Assembly, in 1993, welcomed the progress made so far by the group of experts and requested the Secretary-General to continue to render to it the assistance necessary in order to finalize the drafting of a treaty. 5/ Subsequently, a preliminary draft treaty was submitted for consideration at the OAU summit meeting held at Tunis in June 1994. The summit declaration, in expressing support for the work of the group of experts, proposed that the group should hold another, final, session in order to solve several outstanding issues, most notably those concerning the geographical limits of the projected zone, and taking into account comments submitted by OAU member States. It is expected that, after one more session of the group of experts, the draft treaty can be presented to OAU, for its final approval and adoption, in the first half of 1995.

B. Asia

9. Owing to widely varying security conditions and concerns of the States in the region, the proposals put forward so far for the establishment of nuclear-weapon-free zones refer to various subregions of Asia rather than to the continent as a whole.

1. South-East Asia

10. The idea of establishing a nuclear-weapon-free zone in the south-east Asian region was developed as part of the declaration, issued by the Association of South-East Asian Nations (ASEAN) in 1971, 6/ to establish a zone of peace, freedom and neutrality in South-East Asia (see para. 20 below). According to the declaration, the zone should cover Cambodia, Indonesia, the Lao People's Democratic Republic, Malaysia, the Philippines, Singapore, Thailand and Viet Nam. In recent years, States of the region have revitalized the proposal. Specifically, in 1992, after having reviewed the profound political and economic changes that had occurred since the end of the cold war, the ASEAN States reaffirmed their determination to realize a South-East Asian nuclear-weapon-free zone. 7/ Preparatory work is being undertaken by a working group on the zone established by ASEAN to implement the initiative. In 1993, the working group continued its work on resolving outstanding issues relating to the draft treaty on a nuclear-weapon-free zone in the region.

2. South Asia

11. The proposal for the establishment of a nuclear-weapon-free zone in South Asia has been on the agenda of the General Assembly since 1974. In the view of the proponents of the project, a regime similar to those established in Latin America and the South Pacific should be established in South Asia as well. Pakistan has proposed the holding of a conference on nuclear non-proliferation in South Asia under the auspices of the United Nations, with the participation of regional and other interested States. 8/ India, one of the major States in the region, has, however, taken the position that without a proper definition of the geographic extent, security needs and concerns of a region, endorsement of the concept would be inappropriate. It also considers nuclear disarmament as an issue that requires a global rather than a regional approach.

3. North-East Asia

12. The project of making the Korean peninsula a nuclear-weapon-free zone was incorporated into the Agreement on Reconciliation, Non-aggression and Exchanges and cooperation between the South and the North and in the Joint Declaration of the Denuclearization of the Korean Peninsula, 9/ agreed upon between the Democratic People's Republic of Korea and the Republic of Korea in 1991. Both States committed themselves not to test, manufacture, possess, store, deploy or use nuclear weapons and to provide for verification. The conclusion of the Agreement was facilitated by the removal by the United States of America of its tactical nuclear weapons from the Republic of Korea by December 1991. A Joint Nuclear Control Commission was created by the Democratic People's Republic of Korea and the Republic of Korea to supervise the non-nuclear-weapon status. So far, the two sides have not been able to agree how to conduct inspections. In a joint statement of 19 July 1993, the Democratic People's Republic of Korea and the United States, inter alia, reaffirmed the importance of the implementation of the Joint Declaration of the Denuclearization of the Korean Peninsula, and the Democratic People's Republic of Korea promised to begin the South-North talks on nuclear issues as soon as possible. The talks began in October 1993, but no agreement appeared to be in sight on the question of exchanging special envoys to discuss outstanding matters. After the eighth meeting, held in March 1994, the talks were suspended. In April 1994, the Democratic People's Republic of Korea declared its readiness to resume the talks regarding the exchange of special envoys. In June, the two sides agreed to hold a summit meeting. The meeting is expected to give a renewed impetus to the consideration of the issue of the nuclear-weapon-free zone.

C. Middle East

13. The idea of establishing a nuclear-weapon-free zone in the Middle East was first raised in 1974 by Iran and Egypt. Since then, the General Assembly has annually adopted resolutions on the subject. 10/ In 1990, Egypt broadened the concept by proposing the establishment of a zone free from weapons of mass destruction in the Middle East. 11/ Further elaborating on that initiative, in 1991, Egypt called upon the major arms-producing States to endorse the

declaration of the Middle East as a region free of weapons of mass destruction. 12/

14. The proposal for the creation of a nuclear-weapon-free zone in the Middle East has met with wide acceptance in the United Nations and has enjoyed wide support in the region itself, eventually gaining consensus in the General Assembly. While expressing several reservations regarding the approach suggested in the resolutions, Israel has joined the consensus. However, the discussions within and outside the United Nations have revealed differences of view regarding how best to advance the concept and on preferred approaches towards that goal. The Arab States, while realizing the need for a comprehensive peace settlement in the region, hold the view that the establishment of a nuclear-weapon-free zone would contribute substantially in creating the climate for such a solution. They also call for Israel to place all its nuclear installations under full-scope safeguards with the International Atomic Energy Agency (IAEA). 13/ Israel, for its part, believes that the nuclear issue should be dealt with in the full context of the peace process, as well as of all regional security problems; that confidence-building measures of a general nature ought to be at the top of the agenda; and that a nuclear-weapon-free zone could be best concluded once peace in the Middle East is assured.

15. In the 1990s, a number of events relevant to the establishment of a nuclear-weapon-free zone in the region occurred. The changes in international relations, and particularly the measures of nuclear disarmament agreed upon by extraregional Powers, and the direct negotiations between Arab States and Israel had a bearing on the prospects for the establishment of such a zone. The consideration of the issue has been facilitated by the setting up in 1992 of the Middle East Multilateral Group on Arms Control and Regional Security (ACRS) established by the Peace Conference on the Middle East launched in 1991. Discussions are being held in this framework among and between regional and extraregional States with a view to determining how best to move towards the establishment of a nuclear-weapon-free zone in the Middle East. However, the differences in concept and approach described above still exist. As of April 1993, the United Nations has taken an active part in the work of ACRS. The Secretary-General, pursuant to various resolutions of the General Assembly, has submitted several comprehensive reports to the Assembly on the question of a nuclear-weapon-free zone in the Middle East. 14/

D. Europe

16. The earliest specific proposals for a regional approach to nuclear non-proliferation were made with respect to Europe. During the period of East-West tension, various initiatives for the establishment of nuclear-weapon-free zones were made, which were part of the discussion on nuclear weapon capabilities stationed in Europe by both the military alliances. They related in particular to the Balkans, central Europe and northern Europe. In this context, the idea of establishing a zone free of battlefield nuclear weapons in central Europe was developed by the Independent Commission on Disarmament and Security Issues (Palme Commission). Although the proposals were further developed throughout the years, none of them resulted in concrete negotiations

and some of them are no longer considered applicable. The end of the cold war, however, has in practice led in central Europe to a nuclear-weapon-free zone through the Treaty on the Final Settlement with respect to Germany: 15/ after the withdrawal of Russian forces from former German Democratic Republic territory in 1994, no nuclear weapons will be stationed in that part of Germany.

IV. ZONES OF PEACE

17. The concept of zones of peace started to gain increasing attention in the 1960s and 1970s, in reaction to the growing number of regional hotbeds of tension. The concept was introduced for the first time at the Summit Conference of Non-Aligned Countries, held at Cairo in 1964. The establishment of zones of peace has been considered in several regions, such as the Indian Ocean, South-East Asia, the Mediterranean, the South Atlantic and Central America. Although a precise definition of a zone of peace has not yet been formulated, there are several elements which, together, may serve to characterize the concept. Among the elements are: non-interference and acceptance by extra-zonal Powers, maintenance of regional peace by political cooperation and military restraint; and regional economic and political cooperation. 16/ Consequently, a zone of peace can be seen as a process, characterized by a certain conception of regional peace which it aims at promoting.

A. Indian Ocean

18. The initiative to establish a zone of peace in the Indian Ocean was prompted by fears among the non-aligned countries in the region that the global confrontation during the cold war between the two major Powers would spill over to the Indian Ocean region. Since 1971, when the Declaration of the Indian Ocean as a Zone of Peace was adopted by the General Assembly, resolutions on the subject have been adopted annually by the Assembly. 17/ Later, an ad hoc committee was established to study the implications of the Indian Ocean peace zone proposal and to make preparations for convening a conference on the Indian Ocean.

19. The work of the Ad Hoc Committee on the Indian Ocean during the past years has revealed that efforts to establish a zone of peace in the Indian Ocean has encountered many difficulties and that the positions of States regarding the convening of a conference on the Indian Ocean have remained basically unchanged. Most of the non-aligned countries are in favour of convening the conference as soon as possible. Western States have suggested that it would be more productive to continue deliberations through consultations rather than through the Ad Hoc Committee itself. As a result of these divergent views, the convening of the conference, originally scheduled to take place at Colombo in 1981, has been successively postponed. The Ad Hoc Committee is now addressing new alternative approaches to the achievement of the goals contained in the Declaration, as well as its own future role.

B. South-East Asia

20. In recent years, member States of ASEAN have revived the process of implementing the Declaration of 1971 on the establishment of a zone of peace, freedom and neutrality in South-East Asia. 6/ In 1992, the ASEAN States reaffirmed their determination to realize the zone of peace and neutrality, as well as a South-East Asian nuclear-weapon-free zone (see para. 10 above). 7/ Intra-ASEAN dialogue on security cooperation continues and a senior officials working group has been established in order to undertake preparatory work for implementing the project. By its resolution 47/53 B of 9 December 1992, the General Assembly unanimously endorsed the Treaty of Amity and Cooperation in South-East Asia. 18/ The Treaty contains provisions for the pacific settlement of disputes and renunciation of the threat or use of force, and for regional cooperation. In 1993, the ASEAN States endorsed the establishment of an ASEAN regional forum for the discussion of ASEAN and Asia-Pacific security issues. The forum is scheduled to hold its first meeting at Bangkok in the summer of 1994.

C. The Mediterranean

21. The question of the strengthening of security and cooperation in the Mediterranean region has been the subject of efforts particularly by the non-aligned Mediterranean countries. The issue has been discussed at numerous forums: by non-aligned conferences at various levels, in the General Assembly and within the framework of the Conference on Security and Cooperation in Europe (CSCE). At the Helsinki CSCE summit conference in 1992, the participating States agreed, inter alia, to widen their cooperation and enlarge their dialogue with the non-participating Mediterranean States. 19/ A proposal for convening a conference on security and cooperation in the Mediterranean region gained widespread support among the countries concerned. Regional consultations are taking place to create the appropriate conditions for its convening.

D. The South Atlantic

22. At the initiative of Brazil, the South Atlantic, which encompasses the region between Africa and South America, was declared a zone of peace and cooperation by the General Assembly in 1986. 20/ A periodical consultation mechanism among the zonal States (African and Latin American States) 21/ is pursuing the common goals of the declaration. The main objectives of the efforts undertaken for implementing the project are the promotion of regional cooperation and the protection of the environment, as well as the maintenance of peace and security in the region. Particular attention was dedicated to the question of preventing the geographical proliferation of nuclear weapons and of reducing and eventually eliminating the military presence of countries from other regions. Various organizations and bodies of the United Nations system are rendering assistance in implementing the zone-of-peace project. 22/ The recent positive developments in South Africa, as well as those regarding the full entry into force of the Treaty of Tlatelolco and the drafting of a treaty on an African nuclear-weapon-free zone, could have a promotive impact also on the peace-zone project in the South Atlantic. A meeting of high officials of

the zone is scheduled to be held at Rio de Janeiro, Brazil, in the second half of 1994.

E. Central America

23. Following discussions at the Esquipulas I and II summit meetings, 23/ the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, in December 1990, declared Central America to be a region of peace, freedom, democracy and development. 24/ The Central American Integration System was created one year later in order to ensure the integration of Central America and to establish the peace zone. 25/ As part of the process, negotiations on security, verification and control and limitation of arms and military personnel were undertaken within the Security Commission established by the States of the region.

Notes

1/ Article VII of the non-proliferation treaty reads as follows:

"Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories."

2/ See resolution 3472 B (XXX).

3/ Official Records of the General Assembly, Tenth Special Session, Supplement No. 4 (A/S-10/4), resolution S-10/2, para. 60.

4/ For details, see documents NPT/CONF/7 and Add.1, NPT/CONF.II/5, NPT/CONF.III/5 and NPT/CONF.IV/5. In the period under review, the following resolutions were adopted by the General Assembly: 45/56 A and B, 46/34 A and B, 47/76 and 48/86.

5/ Resolution 48/86.

6/ See A/C.1/1019.

7/ A/47/80-S/23502.

8/ See A/47/93.

9/ See CD/1147.

10/ For details see documents NPT/CONF/7 and Add.1, NPT/CONF.II/5, NPT/CONF.III/5 and NPT/CONF.IV/5. In the period under review, the following resolutions were adopted: 45/52, 46/30, 47/48 and 48/71.

11/ The proposal was first submitted to the Conference on Disarmament in April 1990 (see CD/989).

12/ See A/46/329-S/22855, annex.

13/ See also General Assembly documents A/47/538 and A/48/494, containing IAEA resolutions on the application of IAEA safeguards in the Middle East.

14/ A/45/435; A/48/399.

15/ For the text of the Treaty, see NATO Review, No. 5, Brussels, October 1990, p. 30.

16/ See A/35/16, annex.

17/ For details, see documents NPT/CONF/7 and Add.1, NPT/CONF.II/5, NPT/CONF.III/5 and NPT/CONF.IV/5. During the period under review, the following resolutions were adopted by the General Assembly: 45/77, 46/49, 47/59 and 48/82.

18/ United Nations, Treaty Series, vol. 1025, No. 15063.

19/ See A/47/361-S/24370, annex.

20/ Resolution 41/11; during the period under review, the following resolutions were adopted by the General Assembly: 45/36, 46/19, 47/74 and 48/23.

21/ See A/48/581, annex.

22/ See A/48/531.

23/ For details, see NPT/CONF.IV/5, para. 136.

24/ See A/45/906-S/22032, annex.

25/ See A/46/829-S/23310, annex III.